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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,450	06/19/2006	Johan Willy Declercq	DECL3001/JEK	9009
23364 7590 04/09/2010 BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314-1176				
EXAMINER ZACHARIA, RAMSEY E				
ART UNIT		PAPER NUMBER		
1787				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/583,450

Applicant(s)

DECLERCK, JOHAN WILLY

Examiner

Ramsey Zacharia

Art Unit

1787

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7 and 10-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 is/are allowed.
- 6) ☒ Claim(s) 1-4, 7 and 10-17 is/are rejected.
- 7) ☒ Claim(s) 18 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Specification

2. The amendment filed 05 October 2009 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: restricting the term polyolefin to polymeric homopolymers ("[t]hat is, polymeric homopolymers" at the end of the paragraph beginning on line 20 of page 6.)

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

3. Claims 1-4, 7, and 10-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The phrase "homopolymeric polyolefin" represent new matter.

The specification as originally filed defined the term polyolefin as polymers "which are mainly built up of carbon atoms and hydrogen atoms" and cites polyethylene, polypropylene, 1-butene, 4-methyl pentane, as examples.

The written description requirement for a claimed genus may be satisfied through sufficient description of a representative number of species by actual reduction to practice, reduction to drawings, or by disclosure of relevant, identifying characteristics, i.e., structure or other physical and/or chemical properties, by functional characteristics coupled with a known or disclosed correlation between function and structure, or by a combination of such identifying characteristics, sufficient to show the applicant was in possession of the claimed genus (see MPEP 2163).

In the instant case, the written description requirement for the claimed genus "homopolymeric polyolefin" is not deemed to be met. The original specification discloses only two polyolefins that could be considered homopolymers (i.e. polyethylene and polypropylene) and explicitly cites two **monomers** (1-butene and 4-methyl pentane) that may be components of polyolefins (homopolyolefins as well as copolymers of olefin and non-olefin monomers and copolymers of two or more olefin monomers) but are not themselves homopolymers. The definition for polyolefin presented on page 6, lines 21-24 ("[b]y the term polyolefin are hereby understood...") is explicitly broader than homopolymers of olefins since it defines "polyolefin" as "polymers which are *mainly* built up of carbon and hydrogen atoms" [emphasis added]. Olefins, contain only carbon and hydrogen atoms, thus homopolyolefins would contain only carbon and hydrogen atoms. By explicitly stating that polyolefins (as understood in the context of the instant invention) are *mainly* built up of carbon and hydrogen atoms, the applicants imply that

the presence of non-olefin monomers may be present in a "polyolefin" as used in the instant application. Even if the definition was limited to polymers built up exclusively of olefins, it would still not convey the meaning of homopolymeric polyolefin since copolymers of two or more olefins would also be built up of exclusively carbon and hydrogen atoms. Thus, the insertion of the term "polymeric homopolymers" represents subject matter that goes beyond the subject matter described in the originally filed disclosure.

Allowable Subject Matter

4. Claim 20 is allowed.
5. Claims 18 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 18-20 are directed to films comprising specific homopolymeric polyolefins (polyethylene and/or polypropylene) that were disclosed in the originally filed specification in addition to specific polymers for the jointing layer and PCTFE layer, the combination of which is neither taught nor fairly suggested by JP 63-224944 A nor US 6,306,503 (i.e. the closest prior art of record).

Response to Arguments

7. Applicant's arguments filed 21 January 2010 have been fully considered but they are not persuasive.

The applicant argues that the phrase "homopolymeric polyolefin" is a reasonable interpretation of the specification as it would be understood by one of ordinary skill in the art. The applicant points to "specifically identified homopolymers such as for example polyethylene, polypropylene, 1-butane, 4-methyl pentane, etc." However, these specific examples are not all homopolymers. While it can be argued that polyethylene and polypropylene are homopolymers, 1-butane and 4-methyl pentane are not homopolymers but rather olefin monomers. Thus, the definition of polyolefin presented on lines 21-24 of page 6 in the originally filed disclosure does not reasonably convey to one of ordinary skill in the art that the applicant had possession of all homopolymeric polyolefins because it does not contain a representative number of species encompassed by the genus "homopolymeric polyolefin" sufficient to show the applicant was in possession of the claimed genus.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey Zacharia whose telephone number is (571) 272-1518. The examiner is working a part-time schedule and is periodically in the office.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho, can be reached at (571) 272-1123. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Ramsey Zacharia/

Primary Examiner, Art Unit 1794